

2023 HOUSE FINANCE AND TAXATION

HB 1456

2023 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

HB 1456
1/30/2023

A bill relating to the definition of gross receipts for purposes of sales tax calculation.

Chairman Headland opened the hearing at 10:58AM.

Members present: Chairman Headland, Vice Chairman Hagert, Representative Anderson, Representative Bosch, Representative Dockter, Representative Fisher, Representative Grueneich, Representative Hatlestad, Representative Motschenbacher, Representative Toman, Representative Finley-DeVilleville, and Representative Ista. **Members absent:** Representative Olson and Representative Steiner.

Discussion Topics:

- Tangible Personal Property (TPP) installation
- Gross receipts definition

Representative O'Brien introduced the bill in support (#17832).

Shannon Fleischer, Associate Director with the North Dakota Tax Department, answered questions from the committee.

Chairman Headland closed the hearing at 11:08AM.

Representative Dockter moved a Do Pass.

Representative Anderson seconded the motion.

Roll call vote:

Representatives	Vote
Representative Craig Headland	Y
Representative Jared Hagert	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Lisa Finley-DeVilleville	Y
Representative Jay Fisher	Y
Representative Jim Grueneich	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Mike Motschenbacher	Y
Representative Jeremy Olson	AB
Representative Vicky Steiner	AB
Representative Nathan Toman	Y

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Motion passed 12-0-2

Representative Grueneich is the bill carrier.

Chairman Headland adjourned at 11:11AM.

Mary Brucker, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1456: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1456 was placed on the Eleventh order on the calendar.

TESTIMONY

HB 1456



North Dakota House of Representatives

STATE CAPITOL
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BISMARCK, ND 58505-0360



Representative Emily O'Brien

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COMMITTEES:

Appropriations

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House Bill 1456

Finance and Taxation Committee, Representative Headland

January 30, 2023

Chairman Headland and members of the House Finance and Taxation Committee:

I am Representative Emily O'Brien, from District 42, in Grand Forks, North Dakota.

House Bill 1456 is a simple bill that was requested by a constituent.

Section 1 of HB 1456 modifies the definition of gross receipts to include installation charges.

The goal is not to change how the Tax Department taxes tangible personal property. This bill clarifies sales tax language around tangible personal property (TPP) installation and how the department interprets and practices this sales tax.

Here is one example from my constituent:

"A couple of years ago, we hired a subcontractor to supply and install kitchen equipment into a brand-new school in Watford City. Their contract was for just under \$400,000, including installation fees of about \$45,000. The subcontractor did not charge us tax on the installation fees. Our auditor claimed that about \$200,000 worth of equipment (ovens, dishwashers, mixers, etc.) was not affixed to the building, so they were TPP, and installing those items was taxable."

In 57-39.2-01 – Tangible Personal Property is defined as “means personal property that can be seen, weighed, measured, felt, or touched or that is in any other manner perceptible to the senses. Tangible personal property also includes electricity, water, gas, steam, and prewritten computer software.

I worked with the sales tax department and they confirmed this language is sufficient. I spoke with a few individuals from the industry, and they were not opposed.

Each state follows The Uniform Commercial Code, a comprehensive set of laws governing all commercial transactions in the United States. It is not a federal law, but a uniformly adopted state law.

This bill has a fiscal note – which may increase revenue to both the general fund and the state aid fund. This increase would be based on the number of eligible purchases that contain installation charges. That amount is unknown.

Thank you, Chairman Headland and members of the Finance and Taxation Committee. I will stand for any questions.